

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MDL No. 2672 CRB (JSC)

IN RE: VOLKSWAGEN “CLEAN DIESEL”
MARKETING, SALES PRACTICES, AND
PRODUCTS LIABILITY LITIGATION

PRETRIAL ORDER NO. 1

This Order Relates To:

ALL ACTIONS

The Judicial Panel on Multidistrict Litigation (“the Panel”) has transferred certain marketing, sales practices, and products liability lawsuits relating to Volkswagen and other diesel vehicles to this Court for coordinated pretrial proceedings. As the number and complexity of these actions warrant holding a single, coordinated initial case management conference for all actions, the Court **ORDERS** as follows:

1. **APPLICABILITY OF ORDER** — Prior to the initial conference and entry of a comprehensive order governing all further proceedings in this case, the provisions of this Order shall govern the practice and procedure in those actions that were transferred to this Court by the Panel. This Order applies to all related cases filed in all divisions of the Northern District of California and all “tag-along actions” later filed in, removed to, or transferred to this Court.

2. **CONSOLIDATION**—The civil actions transferred to this Court or related to the actions already pending before this Court are consolidated for pretrial purposes. Any “tag-along actions” transferred to this Court, or directly filed in the Northern District of California, will automatically be consolidated with this action without the necessity of future motions or orders. This consolidation does not constitute a determination that the actions should be consolidated for

trial, nor does it have the effect of making any entity a party to any action in which he, she or it has not been named, served or added in accordance with the Federal Rules of Civil Procedure.

3. **DATE OF INITIAL CONFERENCE AND CONFERENCE AGENDA**—The Court will conduct an initial conference on *Tuesday, December 22, 2015 at 8:00 a.m.* in Courtroom No. 6, 17th Floor, 450 Golden Gate Avenue, San Francisco California. Lead defense counsel is required to appear in person at the conference. On or before *Wednesday, December 16, 2015*, Defendants shall submit a written submission advising the Court as to the status of all litigation pending in this MDL matter. The submission shall also advise the Court of the steps Defendants have taken to preserve relevant evidence, including electronically stored information. Defense counsel shall be prepared at the December 22, 2015 conference to answer questions from the Court regarding the written submission, litigation status and evidence preservation. Plaintiffs' counsel will be permitted to respond in writing.

4. **LISTENING LIVE TO THE DECEMBER 22, 2015 STATUS CONFERENCE**—Consistent with Federal Rules of Civil Procedure 1's command that the courts and parties construe, administer and employ the Rules "to secure the just, speedy, and inexpensive determination of every action and proceeding," counsel, other than lead defense counsel, may listen to the December 22, 2015 conference through CourtCall and thus need not incur the expense and burden of attending this conference in person. Access to the conference may be arranged by calling CourtCall at (866) 582-6878 not later than 5:00 p.m. on December 21, 2015. CourtCall participants may only listen to the proceedings.

5. **APPOINTMENT OF PLAINTIFFS' STEERING COMMITTEE(S)**—The Court intends to appoint a Plaintiffs' Steering Committee(s) to conduct and coordinate the pretrial stage of this litigation with the defendants' representatives or committee. The Court will issue a further order governing the schedule and procedure for the appointment of Plaintiffs' Steering Committee(s) and anticipates that the applications for appointment will be due Friday, January 8, 2016, responses/objections due Thursday, January 14, 2016, with a hearing scheduled for January 21, 2016, although this schedule may change.

6. **MASTER DOCKET FILE**—The Clerk of Court will maintain a master docket

case file under the style “In re: Volkswagen ‘Clean Diesel’ Marketing, Sales Practices, and Products Liability Litigation” and the identification “MDL 2672.” When a pleading is intended to apply to all actions, this shall be indicated by the words: “This Document Relates to: ALL ACTIONS.” When a pleading is intended to apply to fewer than all cases, this Court’s docket number for each individual case to which the document number relates shall appear immediately after the words “This Document Relates to.”

7. **FILING**---Each attorney of record is obligated to become a Northern District of California ECF User and be assigned a user ID and password for access to the system. If she or he has not already done so, counsel shall register forthwith as an ECF User and be issued an ECF User ID and password. Forms and instructions can be found on the Court’s website at www.cand.uscourts.gov/cm-ecf. All documents shall be e-filed in the Master file, 15-MD-2672. Documents that pertain to one or only some of the pending actions shall also be e-filed in the individual case(s) to which the document pertains. Registration instructions for pro se parties who wish to e-file can be found on the Court’s website at www.cand.uscourts.gov/ECF/proseregistration.

8. **APPEARANCES**—Counsel who are not admitted to practice before the Northern District of California must file an application to be admitted pro hac vice. *See N.D. Cal. Civil Local Rule 11-3*. The requirement that pro hac vice counsel retain local counsel, *see N.D. Cal. Civil Local Rule 11-3(a)(3) and 11-3(e)*, is waived and does not apply to this MDL action.

9. **RESPONSE EXTENSION AND STAY**—Defendants are granted an extension of time for responding by motion or answer to the complaints until a date to be set by this Court. Pending further order of this Court, all outstanding discovery proceedings are stayed, and no further discovery shall be initiated. Moreover, all pending motions must be renoticed for resolution once the Court sets a schedule for any such motions.

10. **PRESERVATION OF EVIDENCE**—All parties and counsel are reminded of their duty to preserve evidence that may be relevant to this action, including electronically stored information. Any evidence preservation order previously entered in any of the transferred actions shall remain in full force and effect until further order of the Court. Until the parties reach an

1 agreement on a preservation plan for all cases or the Court orders otherwise, each party shall take
2 reasonable steps to preserve all evidence that may be relevant to this litigation. Counsel, as
3 officers of the court, are obligated to exercise all reasonable efforts to identify and notify parties
4 and non-parties, including employees of corporate or institutional parties, of their preservation
5 obligations.

6 11. **SETTLEMENT MASTER**—All parties are invited to file any suggestions of
7 person(s) to appoint as Special Settlement Master. The submissions must be filed on or before
8 **December 22, 2015** and each submission shall not exceed three pages. Any responses/objections
9 and/or support for persons suggested by other parties shall be filed on or before **January 6, 2016**.

10 12. **CASE WEBSITE**---The Court will maintain a website--accessible to counsel,
11 parties, the public and the press free of charge--at cand.uscourts.gov/crb/vwmdl. The website will
12 include a list of dates and times of upcoming proceedings, along with significant court orders and
13 other documents.

14 **IT IS SO ORDERED.**

15 Dated: December 9, 2015



CHARLES R. BREYER
United States District Judge